IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(Cr.) No. 63 of 2002

Sri J.N. Hanchinmani ... ...Petitioner

-V e r s u s -

1. State of Jharkhand
2. Labour Enforcement Officer – cum – Inspector (MW Act), Maheshpur.

... ... Respondents

...

CORAM: - HON'BLE MR. JUSTICE D. N. UPADHYAY

For the Appellants :Mr. Kalyan Roy, Advocate.
Mr. Amitabh Kumar, Advocate.
For the Respondents :J.C. to Mr. S.C. - II.

7/08.08.2014 Heard the parties.

This writ petition has been filed for quashing the order dated 25.01.2002, passed by Sessions Judge, Pakur in Criminal Revision No. 65 of 2001 whereby the Order dated 25.10.2000, passed by A.C.J.M. Incharge, Pakur in connection with O.C.R. No. 119 of 2000 corresponding to T.R. Case No. 1161 of 2000, has been affirmed and revision petition has been dismissed.

It is contended that the petitioner has no concern with the Theodori Christian Hospital, Maheshpur, District – Pakur and he does not have administrative supervisory control. As a matter of fact, the activities and management of the said Hospital is being controlled by the Administrative and Supervisory Control of Regional Executive Board of Bengal Regional Conference. The Labour Enforcement Officer has submitted an incorrect complaint against the petitioner. It is not indicated under what capacity the petitioner was having control over the said Hospital and how he is connected with the day-to-day affairs such as payment of wages to the employees. The learned ACJM, without application of mind, passed the impugned order by which cognizance has been taken and he has not even indicated as to what allegation against the petitioner is levelled in the complaint.

The impugned order passed by ACJM was challenged by the petitioner before the learned Sessions Judge and a revision was preferred vide Criminal Revision No. 65/2001 but the learned Sessions Judge has dismissed the revision application arbitrarily without considering the correct provision of law.

It is further pointed out that an application (Annexure-4) was filed before the Deputy Labour Commissioner with a prayer to exonerate the petitioner from the liability and it was accordingly heard and an order dated 26.11.2001 (Annexure-5) was passed by which the petitioner has not been held liable on the ground that he has no concern with day-to-day working of said Hospital.

Counsel for the State has opposed the prayer.

I have gone through Annexure-1, the complaint filed by the Labour Enforcement Officer. It appears that the authority of the Hospital were directed to furnish the details and their stand against the irregularity and illegality detected during inspection but they kept mum and did not give any reply. Thereafter the complaint was filed before the learned ACJM, Pakur.

It appears from the order dated 25.10.2000, passed by learned ACJM in connection with O.C.R. No. 119 of 2000 that the learned ACJM has perused the report and after finding that prima facie case is made out, took cognizance for the offence under Section 22(A) of the Minimum Wages Act, 1948. The learned Sessions Judge, in the impugned order dated 25.01.2002, passed in Criminal Revision No. 65 of 2001 has elaborately discussed all the points and given liberty to the petitioner to raise his grievance in course of trial at an appropriate stage. Learned counsel has also referred head note of the Judgment reported in (2013) 4 SCC 505.

It appears that it is a government complaint which is in printed form and filled up by the complainant. The learned ACJM, in the order dated 25.10.2000, had clearly mentioned that on perusal of entire report, a prima

facie case is made out. This goes to show that after perusing the complaint the Court has taken cognizance. So far Annexures-4 and 5 are concerned, if the Department concerned is of the opinion that the petitioner has not committed offence for which prosecution report has been submitted, in that situation they shall be at liberty to make correspondence for withdrawal of the case. So far this writ petition is concerned, those findings of the Deputy Labour Enforcement Officer has no bearing.

I do not find any merit in this writ petition and the same stands dismissed giving liberty to the petitioner to raise all his grievances before the trial court at an appropriate stage.

(D. N. Upadhyay, J.)

RC